



DAC Box M  
IFW

October 23, 2008

RECEIVED

NOV 10 2008

OFFICE OF PETITIONS

FROM: THEODORE M. SIRKIN  
23262 Oxnard Street  
Woodland Hills, CA 91367

(818) 887-1866

TO: Director of the U.S. Patent & Trademark Office  
Mail Stop >Post Issue<  
P.O. Box 1450  
Alexandria, VA 22313-1450

Ref: Patent Number 6799732  
Issued October 5, 2004  
Application Number 10027335

To the Director,

I, Theodore M. Sirkin, hereby remit the sum of \$2,130.00 for the maintenance fees for my patent issued on October 5, 2004 – Patent Number 6,799.732.

The payment is broken down as follows:

Maintenance fees due April 4, 2008: \$ 490.00

Surcharge for Unintentional Delay: 1,640.00  
(See copy of letter enclosed)

\$ 2,130.00

Please note that there is a copy of a letter enclosed to the Commission, which was mailed concurrently with this payment requesting consideration that the circumstances causing the delay of the maintenance fees was *unavoidable* as opposed to being *unintentional*. The check, though, includes the surcharge amount for an unintentional delay and if the Director permits, any refund amount should be returned to the Woodland Hills address noted above.

I respectfully request that the Director re-instate my patent.

Very truly yours,

Theodore M. Sirkin

10/31/2008 MBELETE1 00000075 6799732

01 FC:1599

2130.00 0P



October 23, 2008

FROM: THEODORE M. SIRKIN  
23262 Oxnard Street (818) 887-1866 RECEIVED  
Woodland Hills, CA 91367

TO: Mail Stop Petition NOV 10 2008  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

OFFICE OF PETITIONS

Ref: Patent Number 6799732  
Issued October 5, 2004  
Application Number 10027335

To the Director,

I, Theodore M. Sirkin, hereby make petition to the Director to grant late payment of my first-time patent maintenance fee the status of 'UNAVOIDABLE DELAY'. Please find attached to this letter a copy of my check in the amount of \$2,130.00. This payment is sent concurrently with this letter to your "Post Issue Dept." for the maintenance fees of \$490.00 and the \$1,640.00 fee for paying late under "UNINTENTIONAL DELAY" status.

When the patent was granted on October 5, 2004, my patent attorney, Robert Schaap, advised me via a letter dated November 2, 2004, that my first maintenance fee was due 4 years from date of patent issuance, the second fee was due 8 years after and the third fee due 12 years after. I entered those dates onto my patent file so that I would not miss them. Approximately, two months ago in mid-August, I contacted Mr. Schaap's office requesting the information I needed in order to make the payments. (Other than getting e-mails, I am not very computer literate.) He and his secretary assured me they would provide the information. For the next few weeks, I constantly nagged them every 3 or 4 days requesting that info so I could pay the fees. On October 4<sup>th</sup>, the day prior to the last day, I begged them to please e-mail or call me with that info. I also called Mr. Schaap on October 5<sup>th</sup> and left pleading messages for him to get back to me.

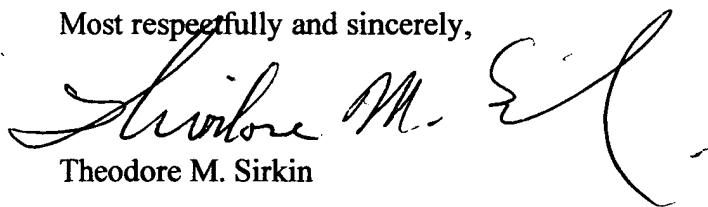
Just prior to this time, Mr. Schaap's secretary went on part time with Mr. Schaap and took full time employment with another company. Apparently, she handled everything for him. In any event, not until October 8<sup>th</sup>, did she e-mail me the information that I needed to make my maintenance fee payment and that was 3 days too late. Mr. Schaap himself had no idea where to make the payments, only the secretary knew. As you can see by his November, 2004 letter, he did not even know that the payment was due 3 1/2 years after issuance. Up until a few days ago, he even argued with me that the payment was not due without penalty until after 4 years from issuance.

Had my attorney properly advised me that the maintenance fees were due 3 ½ years after issuance instead of four years, this problem would never had arisen because I would have made sure the fees were paid prior to the 3 ½ year mark just to avoid the \$65.00 surcharge, not to mention the \$1,640.00 surcharge. A copy of Mr. Schaap's November, 2004 letter is also enclosed with this letter. Also, find enclosed a copy of the e-mail dated October 8, 2008, from Liliana Zepeda, Mr. Schaap's secretary.

As you can see by the copy of the check enclosed with this letter, the remitted amount is for "UNINTENTIONAL DELAY" but under the circumstances, which were completely unavoidable on my part, it is respectfully requested that the Director grant the status of "UNAVOIDABLE DELAY" so that at least the surcharge is reduced from \$1,640.00 down to \$700.00.

We also are appealing to the director because we are a young start-up company that can ill-afford this \$1,640 surcharge due to the misinformation of our patent counsel and the ensuing inconsiderate acts of the attorney's secretary. We also ask the Director, if possible, to consider the mission of our company, which is the utilization of this patent along with our first one to help the country in alleviating the water crises that are causing serious concern in many areas of the country, most notably, the Sunbelt. (The two patents involve water savings sprinklers.)

Most respectfully and sincerely,



Theodore M. Sirkin

Enc: Copy of \$2,130.00 check  
Copy of Request for Entity Status and Fee address Changes to:

Director of the U.S. Patent & Trademark Office  
attn: Maintenance Fees  
2051 Jamieson Avenue - Suite 300  
Alexandria, VA 22314

Copy of 11/2/04 letter from counsel  
Copy of 10/8/08 e-mail from counsel's secretary, Ms. Zepeda